

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.6975 OF 2007

Amratlal and Co, & Anr. : Petitioners
versus

Mathuradas Morarji and others. : Respondents.

Mr.Girish K. Vora for the petitioners.
Mr.S.M.Vyas for the respondents

CORAM : S.A.BOBDE, J.

DATED : OCTOBER 05, 2007.

P.C.

1. Learned counsel appearing for the petitioners seeks leave to delete the Court Receiver. Leave is granted. Amendment to be carried out forthwith.

2. Heard. This writ petition is directed by

the defendants against the order dated 13th August 2007 passed by the Small Causes Court, Mumbai, directing the defendants to deposit a sum of Rs.42,138/- and a sum of Rs.359/- per month and permitting the plaintiffs to receive the amount deposited by the defendants.

3. Apparently the defendants had offered to deposit a sum of Rs.50,000/- only towards the arrears of rent. The lower court has observed in para 7 of the order that though the defendants have offered to deposit Rs.50,000/-, the defendants have not paid arrears of rent at the rate of Rs.359/- per month till filing of the suit. The Court has thus directed payment of said amount of Rs.359/- per month from 1.1.2004 till filing of the suit.

4. It was contended by the learned counsel appearing for the petitioners that the petitioners may be in arrears of rent and the petitioners have received the possession of the property in question viz. the shop premises on 3.5.2000. Apparently the Court has not determined the liability on the basis of such possession. In any event, the order does not

suffer from any error of law apparent from the face of the record and any payment which is received by the respondents shall be subject to final order that may be passed in the suit. There is no reason to interfere at this stage. Petition is dismissed.

[S.A. BOBDE, J]